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VANATTA, A EXAMINER	
ART UNIT	PAPER NUMBER
3408	

DATE MAILED:

06/26/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.
08/436,655

Applicant(s)
Chase et al

Examiner
Amy B. Vanatta

Group Art Unit
3408



☒ Responsive to communication(s) filed on 5/8/95

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-31 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-31 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Part III DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20, 24, and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by Weber et al.

Weber et al disclose a glove (see Fig. 16) having the claimed structure.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention

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were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. Claims 30 and 31 are rejected under 35 U.S.C. § 103 as being unpatentable over Weber et al.

Weber et al disclose a glove having the claimed glove front and glove back, and a vibration dampener disposed within the palm portion of the glove. The dampener comprises a viscoelastic material 28 and is seen in Fig. 16 to extend from the palm portion to the finger portion (i.e. to the base of the finger stalls) as claimed. Weber et al do not disclose the range of vibrations which are dampened by the viscoelastic material, or to what percentage they are dampened, as recited in claim 30. Moreover, Weber does not specifically teach that the material has no resonant response greater than 1.0 as in claim 31. The material disclosed and described by Weber, however, appears to inherently have such properties. Moreover, it is within the routine skill in the art to choose a viscoelastic material with the specific properties which would act to dampen in a manner most useful for the intended use of the glove. Such dampening functions of the material are evident from routine experimentation. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose a viscoelastic material having characteristics which would result in the claimed dampening functions, since it

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has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Moreover, merely slightly altering the viscoelastic material of Weber to result in a slightly different functioning of the material with regard to dampening would be within the level of ordinary skill in the art depending on the intended use of the glove.

5. Claims 21-23 and 25-28 are rejected under 35 U.S.C. § 103 as being unpatentable over Weber et al in view of Jaskiewicz.

Weber et al disclose a glove as claimed, however the viscoelastic material is not shown as creased as in claims 21, 27, and 28.

Jaskiewicz discloses a glove having a dampening cushion (20) in the palm region for absorbing shocks due to use of equipment such as pneumatic powered tools, jackhammers, etc. Jaskiewicz teaches that the use of gel in such cushions to absorb the impact is conventional (col. 1, lines 36-39), although he prefers to use of air or gas in his cushion compartments. Jaskiewicz shows the cushioning as having seam lines (for example 18, 19) formed by adhesives, heat fusing, etc. Such lines form creases as claimed and function to restrict the flow of gases from a compartment while allowing easier bending of the glove in that area. Jaskiewicz shows the creases as in the palm and at the edge

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adjacent the finger portion (for example, Fig. 5) as in claim 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide creases in the viscoelastic material of Weber et al in order to restrict movement of the material within the chamber while allowing easier bending of the glove in that area as shown by Jaskiewicz.

Although Weber shows the viscoelastic material as molded of a predetermined non-uniform shape which is curved to the shape of the hand as shown in Figs. 16-17, the material is not shown as thicker adjacent the palm portion and thinner adjacent the finger portion, or as tapered toward to finger end of the glove. Jaskiewicz shows a cushioning means which is shaped such that it tapers towards the finger end (see Figs. 3 and 3a) and is thicker in the palm and thinner in the finger portion (also see Figs. 3 and 3a). Such a shape allows for easier movement of the hand. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the elastomeric material of Weber in the claimed shape in order to allow for easier movements of the hand, as shown by Jaskiewicz.

6. Claims 18 and 19 are rejected under 35 U.S.C. § 103 as being unpatentable over Weber et al in view of Hiles.

Weber discloses a glove having the claimed structure, however the viscoelastic material is not shown as having gas-filled voids. Hiles shows a cushioning means which dampens

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vibrations and impacts, the cushioning means comprising a viscoelastic material (32, 36) which has channels 5 and 6 therein. These channels inherently clearly fill with gas as claimed and thus form gas-filled voids, and are dispersed throughout the viscoelastic material to the extent claimed in claim 19. Hiles teaches that such voids provide for the passage of air and also decrease the weight of the viscoelastic members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide gas-filled voids in the viscoelastic material of Weber et al in order to provide for the passage of air and to decrease the weight of the viscoelastic members, as taught by Hiles.

7. Claims 1-6, 8-11, 30, and 31 are rejected under 35 U.S.C. § 103 as being unpatentable over Spence et al.

Spence et al disclose a glove having a pad in the palm of the glove (col. 5, lines 1-3), the pad comprised of a viscoelastic polymer which is enveloped by a covering of foam. The foam thus forms an upper and lower layer with a layer of the viscoelastic polymer therebetween, as claimed. Spence discloses the viscoelastic material as PVC such as claimed. Spence does not specifically describe the glove as having a front and back, although he teaches that the pad is on the palm portion, and thus the glove clearly has a front. It would have been obvious to one having ordinary skill in the art to provide the glove disclosed

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by Spence with a back portion as well as the front portion since gloves are conventionally constructed in such a manner to enclose a hand.

Spence does not disclose the material as having the Shore durometer and rebound percentage values as in claim 1 or as having the properties recited in claims 5, 6, 8, 9, 30, and 31. It appears that the material as described by Spence, however, would inherently have such properties. Moreover, it is within the routine skill in the art to choose a viscoelastic material with the specific properties which would act to dampen in a manner most useful for the intended use of the glove. Such properties of the material are evident from routine experimentation. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose a viscoelastic material having characteristics which would result in the claimed properties, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Moreover, merely slightly altering the viscoelastic material of Spence to result in a slightly different properties of the material would be within the level of ordinary skill in the art depending on the intended use of the glove. It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to modify the material of Spence to exhibit such properties since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Spence does not disclose the thickness of the foam layers as being approximately 1/8", however such a thickness is chosen depending on the intended use of the glove and the amount of protection desired. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the foam layers of Spence out of the claimed thickness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Spence teaches the use of the pad in the palm portion of a glove, however he does not specifically teach the pad as extending from the palm portion to the finger portion of the glove as in claim 30. Pads for gloves conventionally extend to various regions of the glove, depending on the amount of protection needed and desired. It would have been obvious to one having ordinary skill in the art to construct the pad of Spence as extending from the palm portion to the fingers on the glove in order to give greater protection for the hand than would be

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obtained from only the palm portion covered, as is conventional in the art.

8. Claims 12-16 and 20-29 are rejected under 35 U.S.C. § 103 as being unpatentable over Spence et al in view of Jaskiewicz.

Spence et al disclose a glove as claimed, however the viscoelastic material is not shown as creased as in claims 13, 21, 27, and 28.

Jaskiewicz discloses a glove having a dampening cushion (20) in the palm region for absorbing shocks due to use of equipment such as pneumatic powered tools, jackhammers, etc. Jaskiewicz teaches that the use of gel in such cushions to absorb the impact is conventional (col. 1, lines 36-39), although he prefers to use of air or gas in his cushion compartments. Jaskiewicz shows the cushioning as having seam lines (for example 18, 19) formed by adhesives, heat fusing, etc. Such lines form creases as claimed and function to restrict the flow of gases from a compartment while allowing easier bending of the glove in that area. Jaskiewicz shows the creases as in the palm and at the edge adjacent the finger portion (for example, Fig. 5) as in claim 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide creases in pad of Spence in order to allowing easier bending of the glove in that area as shown by Jaskiewicz.

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Spence also does not show the material as molded of a predetermined non-uniform shape which is curved to the shape of the hand, as thicker adjacent the palm portion and thinner adjacent the finger portion, or as tapered toward to finger end of the glove. Jaskiewicz shows a cushioning means which is of a non-uniform shape curved to the shape of the hand, and is shaped such that it tapers towards the finger end (see Figs. 3 and 3a) and is thicker in the palm and thinner in the finger portion (also see Figs. 3 and 3a). Such a shape allows for easier movement of the hand. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the elastomeric material of Spence in the claimed shape in order to allow for easier movements of the hand, as shown by Jaskiewicz.

9. Claim 17 is rejected under 35 U.S.C. § 103 as being unpatentable over Spence et al in view of Howard.

Spence et al disclose a glove as claimed, however the protective padding is not disclosed as extending towards the glove back to partially encircle the fingers. Howard shows a glove with padding 16. The padding 16 extends over the fingers and toward the back of the glove in order to protect the fingers, as is conventional in the art. It would have been obvious to one having ordinary skill in the art to provide the padding of Spence over the fingers as well as the palm such that the padding

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extends towards the glove back so as to partially encircle the fingers as taught by Howard in order to provide protection for the fingers, as is conventional in the art.

10. Claims 7, 18 and 19 are rejected under 35 U.S.C. § 103 as being unpatentable over Spence et al in view of Hiles.

Spence discloses a glove having the claimed structure, however the viscoelastic material is not shown as having gas-filled voids. Hiles shows a cushioning means which dampens vibrations and impacts, the cushioning means comprising a viscoelastic material (32, 36) which has channels 5 and 6 therein. These channels fill with gas as claimed and thus form gas-filled voids, and are dispersed throughout the viscoelastic material to the extent claimed in claim 19. Hiles teaches that such voids provide for the passage of air and also decrease the weight of the viscoelastic members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide gas-filled voids in the viscoelastic material of Spence et al in order to provide for the passage of air and to decrease the weight of the viscoelastic members, as taught by Hiles.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

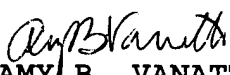
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Vanatta at telephone number (703) 308-2939.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 3400 receptionist whose telephone number is (703) 308-0861. Facsimile correspondence for this application should be sent to (703) 305-3463.


AMY B. VANATTA
PRIMARY EXAMINER
ART UNIT 3408

abv
June 20, 1996